

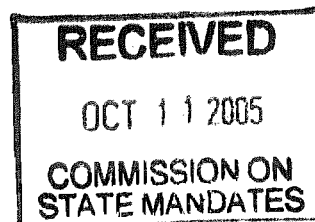


**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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J. TYLER McCAULEY
AUDITOR-CONTROLLER

October 7, 2005



Ms. Paula Higashi, Executive Director
Commission on State Mandates
900 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

Los Angeles County
Comments and Draft Parameters and Guidelines
Handicapped and Disabled Students Program Reconsideration

We submit our comments and draft Parameters and Guidelines for the Handicapped and Disabled Students program [04-RL-4282-10], as reconsidered and adopted by the Commission on State Mandates on May 26, 2005.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "J. Tyler McCauley".

J. Tyler McCauley
Auditor-Controller

JTM:CY:LK:hy
Enclosures

Los Angeles County
Comments and Draft Parameters and Guidelines
Handicapped and Disabled Students Program Reconsideration

The following comments and draft parameters and guidelines [Ps&Gs] for the Handicapped and Disabled Students Reconsideration program [04-RL-4282-10] are submitted to the Commission on State Mandates [Commission] by the County of Los Angeles [County].

During Commission's September 28, 2005 prehearing conference to review the development of parameters and guidelines [Ps&Gs] for the Handicapped and Disabled Students II test claim decision filed by the County of Los Angeles and the County of Stanislaus [02-TC-40/02-TC-49] and for the Commission's decision in the matter of the Handicapped and Disabled Students program reconsideration pursuant to SB 1895 [04-RL-4282-10], it was revealed that neither claimants nor Commission staff had prepared draft Ps&Gs limited only to Commission's reconsideration decision.

Accordingly, the following draft Ps&Gs address only Commission's reconsideration decision.

As a convenience to reviewers comparing one set of Ps&Gs with another, reimbursable activities from the County's draft Ps&Gs for the Handicapped and Disabled Students II test claim decision are separately attached as Exhibit A.

In addition, during the September 28, 2005 prehearing conference, further clarification of the requirements for counties to participate in due process hearings was requested. Such clarification is provided in the attached declaration of Paul L. McIver, Los Angeles County's District Chief for Countywide programs, Children's System of Care.

The attached draft parameters and guidelines closely follow the Commission's "Handicapped and Disabled Students Reconsideration decision [04-RL-4282-10]. This decision provides reimbursement, beginning July 1, 2004, for the following activities:

- "1. Renew the interagency agreement with the local educational agency every three years and, if necessary, revise the agreement (Gov. Code, § 7571; Cal. Code Regs., tit. 2, §§ 60030, 60100)

- Renew the interagency agreement every three years, and revise if necessary.
 - Define the process and procedures for coordinating local services to promote alternatives to out-of-home care of seriously emotionally disturbed pupils.
2. Perform an initial assessment of a pupil referred by the local educational agency, and discuss assessment results with the parents and IEP team (Gov. Code, § 7572, Cal. Code Regs., tit. 2, § 60040)
- Review the following educational information of a pupil referred to the county by a local educational agency for an assessment: a copy of the assessment reports completed in accordance with Education Code section 56327, current and relevant behavior observations of the pupil in a variety of educational and natural settings, a report prepared by personnel that provided “specialized” counseling and guidance services to the pupil and, when appropriate, an explanation why such counseling and guidance will not meet the needs of the pupil.
 - If necessary, observe the pupil in the school environment to determine if mental health assessments are needed.
 - If mental health assessments are deemed necessary by the county, develop a mental health assessment plan and obtain the parent’s written informed consent for the assessment.
 - Assess the pupil within the time required by Education Code section 56344.
 - If a mental health assessment cannot be completed within the time limits, provide notice to the IEP team administrator or designee no later than 15 days before the scheduled IEP meeting.
 - Prepare and provide to the IEP team, and the parent or guardian, a written assessment report in accordance with Education Code section 56327. The report shall include the following information: whether the pupil may need special education and related services; the basis for making the determination; the relevant behavior noted during the observation of the pupil in the appropriate setting; the relationship of that behavior to the pupil’s academic and social functioning; the educationally relevant health and development, and medical findings, if any; for pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services; a determination concerning the effects of environmental,

cultural, or economic disadvantage, where appropriate; and the need for specialized services, materials, equipment for pupils with low incidence disabilities.

- Review and discuss the county recommendation with the parent and the appropriate members of the IEP team before the IEP team meeting.
 - In cases where the local education agency refers a pupil to the county for an assessment, attend the IEP meeting if requested by the parent.
 - Review independent assessments of a pupil obtained by the parent.
 - Following review of the independent assessment, discuss the recommendation with the parent and with the IEP team before the meeting of the IEP team.
 - In cases where the parent has obtained an independent assessment, attend the IEP team meeting if requested.
3. Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary (Gov. Code, § 7572.5, subds. (a) and (b); Cal. Code Regs., tit. 2, § 60100)
- Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary.
 - Re-assess the pupil in accordance with section 60400 of the regulations, if necessary.
4. Act as the lead case manager if the IEP calls for residential placement of a seriously emotionally disturbed pupil (Gov. Code, § 7572.5, subd. (c)(1); Cal. Code Regs., tit. 2, § 60110)
- Designate a lead case manager when the expanded IEP team recommends out-of-home residential placement for a seriously emotionally disturbed pupil. The lead case manager shall perform the following activities:
 1. Convene parents and representatives of public and private agencies in accordance with section 60100, subdivision (f), in order to identify the appropriate residential facility.
 2. Complete the local mental health program payment authorization in order to initiate out of home care payments.

3. Coordinate the completion of the necessary County Welfare Department, local mental health program, and responsible local education agency financial paperwork or contracts.
 4. Coordinate the completion of the residential placement as soon as possible.
 5. Develop the plan for and assist the family and pupil in the pupil's social and emotional transition from home to the residential facility and the subsequent return to the home.
 6. Facilitate the enrollment of the pupil in the residential facility.
 7. Conduct quarterly face-to-face contacts with the pupil at the residential facility to monitor the level of care and supervision and the implementation of the treatment services and the IEP.
 8. Notify the parent or legal guardian and the local education agency administrator or designee when there is a discrepancy in the level of care, supervision, provision of treatment services, and the requirements of the IEP.
5. Issue payments to providers of out-of-home residential care for the residential and non-educational costs of seriously emotionally disturbed pupils (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e))
- Issue payments to providers of out-of-home residential facilities for the residential and non-educational costs of seriously emotionally disturbed pupils. Payments are for the costs of food, clothing, shelter, daily supervision, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. Counties are eligible to be reimbursed for 60 percent of the total residential and non-educational costs of a seriously emotionally disturbed child placed in an out-of-home residential facility.
 - Submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed pupils for 24-hour out-of-home care.
6. Provide psychotherapy or other mental health services, as defined in regulations, when required by the IEP (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60020, subd. (a), 60200, subds. (a) and (b))
- Provide psychotherapy or other mental health services identified in a pupil's IEP, as defined in sections 542 and 543 of the Department of Mental Health regulations. However, the activities of providing vocational services, socialization services, and crisis intervention to pupils, and dispensing

medications necessary to maintain individual psychiatric stability during the treatment process, do *not* constitute a state-mandated new program or higher level of service.

7. Participate in due process hearings relating to mental health assessments or services

(Gov. Code, § 7586; Cal. Code Regs., tit. 2, § 60550)”

In addition, the Commission’s reconsideration decision indicates that the following revenue and/or proceeds must be identified as offsets and be deducted from the costs claimed:

“ ... Funds received by a county pursuant to Government Code section 7576.5

- Any direct payments or categorical funding received from the state that is specifically allocated to any service provided under this program. This includes funds received by a county pursuant to the \$69 million appropriation to counties for purposes of this mandated program in the Budget Act of 2004 ((Stats. 2004, ch. 208, item 6110-161-0890, provision 10).
- Private insurance proceeds obtained with the consent of a parent for purposes of this program.
- Medi-Cal proceeds obtained from the state or federal government that pay a portion of the county services provided to a pupil under this mandated program in accordance with federal law.
- Any other reimbursement received from the federal or state government, or other non-local source “

The following draft Ps&Gs also detail additional duties which are reasonably necessary in the course of providing mandated services authorized under Commission’s Handicapped and Disabled Students program reconsideration decision [04-RL-4282-10].

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I. BACKGROUND AND SUMMARY OF THE MANDATES

Statutes 2004, Chapter 493 (Sen. Bill No. 1895 (“SB 1895”)) directed the Commission to reconsider its prior final decision and parameters and guidelines on the Handicapped and Disabled Students program. Section 7 of the bill states the following:

“Notwithstanding any other law, the Commission on State Mandates shall, on or before December 31, 2005, reconsider its decision relating to included services and administrative and travel costs associated with services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and the parameters and guidelines for calculating the state reimbursements for these costs.”

Previously, the Commission adopted the Statement of Decision on the Handicapped and Disabled Students program in 1990 (CSM 4282) which provided that activities related to individualized education program, or IEP, assessments were 100% reimbursable but that psychotherapy and other mental health treatment services were 10% reimbursable [due to the funding methodology in existence at the time under the Short-Doyle Act for local mental health services].

On May 26, 2005, the Commission issued its reconsideration decision which reaffirmed its original [1990] decision that Chapter 1747, Statutes of 1984 which added Chapter 26, commencing with Section 7570 to Division 7 of Title 2 of the Government Code, imposes reimbursable assessment and treatment costs upon counties and further provided that:

“... beginning July 1, 2001, the 90 percent-10 percent cost-sharing ratio for the costs incurred for psychotherapy and other mental health treatment services no longer applies. Since the period of reimbursement for purposes of this reconsideration begins July 1, 2004, and section 38 of Statutes 2002, chapter 1167 is still in effect, all of the county costs for psychotherapy or other mental health treatment services are reimbursable, less any applicable offsets ...”

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In addition, the Commission found that ‘program realignment’ funds appropriated under the Bronzan-McCorquodale Act [Statutes 2002, Chapter 1167 (Assem. Bill 2781)] were not applicable offsets. In this regard the Commission noted:

“For reimbursement claims for services delivered in the 2001-02 fiscal year and thereafter, counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund [i.e. realignment funds]. (Emphasis added.)”

The Commission also decided a separate matter on the Handicapped and Disabled Students program in order to consider all of the statutory and regulatory changes which had been made to the program since its inception in 1990, the time of Commission’s original 1990 decision. While the Commission, at its May 26, 2005 hearing, also found such changes to be reimbursable, the Ps&Gs for that program will be issued separately.

II. ELIGIBLE CLAIMANTS

Counties.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement is noted after each reimbursable component.

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, the following cost items are one hundred percent (100%) reimbursable:

1. Whenever an LEA refers an individual suspected of being an ‘individual with exceptional needs’ to the local mental health department, mental health assessment and recommendation by qualified mental health professionals in conformance with assessment procedures set forth in Article 2 (commencing with Section 56320) of Chapter 4 of part 30 of Division 4 of the Education Code, and regulations developed by the State Department of Mental Health,

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in consultation with the State Department of Education, including but not limited to the following mandated services:

- a. Interview with the child and family
 - b. Collateral interviews, as necessary
 - c. Review of the records
 - d. Observation of the child at school, and
 - e. Psychological testing and/or psychiatric assessment, as necessary.
- (Effective July 1, 1986.)

2. Perform an initial assessment of a pupil referred by the local educational agency and discuss assessment results with the parents and IEP team members. In the performance, the following is included:

- a. Review of the educational information of a pupil referred to the county by the local education agency for an assessment: a copy of the assessment reports completed in accordance with Education Code section 56327, current and relevant behavior observations of the pupil in a variety of educational and natural settings, a report prepared by personnel that provided 'specialized' counseling and guidance services to the pupil, and, when appropriate, an explanation why such counseling and guidance will not meet the needs of the pupil.
- b. If necessary, the observance of the pupil in the school environment to determine if mental health assessments are needed.
- c. If a mental health assessment is deemed necessary by the county, the development of a mental health assessment plan and obtaining the parent's written informed consent for the assessment.
- d. Assessment of the pupil within the time required by Education Code section 56344.
- e. If a mental health assessment cannot be completed within the time limits, provide notice to the IEP team administrator or designee no later than 15 days before the scheduled IEP meeting.(Effective July 1, 1986; detail provided effective July 1, 2004.)

3. Review and discussion of mental health assessment and recommendation with parent and appropriate IEP team members. (Effective July 1, 1986.)

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4. Attendance by the mental health professional who conducted the assessment at IEP meetings, when requested. (Effective July 1, 1986.)

5. Review by claimant's mental health professional of any independent assessment(s) submitted by the IEP team. (Effective July 1, 1986.)

6. When the mental health assessment report provided by the local mental health program determines that an 'individual with special needs' is 'seriously emotionally disturbed', and any member of the IEP team recommends residential placement based upon relevant assessment information, inclusion of the claimant's mental health professional on that individual's expanded IEP team. (Effective July 1, 1986.)

7. Reassessment of the pupil in accordance with Title 2, California Code of Regulations, section 60040, if necessary. (Effective July 1, 2004.)

8. Required participation in dispute resolution procedures pursuant to complying with the due process duties set forth under Education Code Sections 56500-56508; California Code of Regulations Section 60550; and, Government Code Sections 7585, 7586, that the following activities are reasonably necessary, and reimbursable, in implementing the subject due process requirements:

- a. Attendance and participation in informal resolution conferences
- b. Attendance and participation in formal mediation conferences
- c. Attendance and participation in pre-hearing status conferences convened by the State of California Office of Administrative Hearings [OAH]
- d. Attendance and participation in settlement conferences convened by OAH
- e. Attendance and participation in Due Process hearings conducted by OAH

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- f. Preparation of witnesses and documentary evidence to be presented at hearings
 - g. Correspondence/ responses to motions for dismissal, continuance, and other procedural issues
 - h. Travel associated with dispute resolution
 - i. Reimbursement to parents, in the form of services, cash, and attorney fees, when parents prevail in Due Process hearings and in negotiated settlement agreements that avoid more costly Due Process hearings
 - j. County counsel fees incurred when representing county mental health agencies in dispute resolution. [Effective July 1, 1986.]
9. All administrative costs related to IEP participation, assessment and case management, whether direct or indirect. (Effective July 1, 1986.)
10. All costs related to mental health treatment services for the provision of mental health services when required by the child's individualized education program, including:
- a. Individual therapy, which is defined as "services designed to provide a goal directed therapeutic intervention with the patient which focuses on the mental health needs of the patient";
 - b. Collateral services, which are "sessions with significant persons in the life of the patient, necessary to serve the mental health needs of a patient";
 - c. Group therapy, which are "services designed to provide a goal directed, face-to-face therapeutic intervention with the patient and one or more other patients who are treated at the same time, and which focuses on the mental health needs of the patient";
 - d. Assessment, which is defined as "services designed to provide formal documented evaluation or analysis of the case or nature of the patient's mental, emotional or behavioral disorder. Assessment services are limited to intake examination, mental health evaluation,

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physical examination, and laboratory testing necessary for the evaluation and treatment of the patient's mental health needs";

e. Intensive day treatment and day rehabilitation as set forth in Title 2, California Code of Regulations, Section 60020(i);

f. Medication, which is defined to include "the prescribing, administration, or dispensing of medications necessary to maintain individual psychiatric stability during the treatment process. This service shall include the evaluation of side effects and results of medication" and,

g. Issue payments to providers of out-of-home residential care for the residential and non-educational costs of seriously emotionally disturbed pupils (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e))

h. Residential and non-educational costs of seriously emotionally disturbed pupils, including residential costs for food, clothing, shelter, daily supervision, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. Counties are eligible to be reimbursed for 60 percent of the residential food, clothing, shelter, daily supervision, a child's personal incidentals, liability insurance costs of a seriously emotionally disturbed child placed in an out-of-home residential facility. Counties are eligible to be reimbursed for 100 percent of travel and other non-educational services, including mental health services.

i. Submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed pupils for 24-hour out-of-home care. (Effective July 1, 1986; detail effective July 1, 2004.)

11. Renew the interagency agreement with the local educational agency every three years and, if necessary, revise the agreement. The interagency agreement shall include, but not be limited to, a delineation of the processes and procedures for:

a. Interagency referrals of pupils, which minimize time delays. This may include written parental consent on the receiving agency's forms. Timely exchange of pupil information in accordance with applicable procedures ensuring confidentiality.

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- b. Participation of mental health professionals, including those contracted to provide services, at IEP team meetings pursuant to Government Code, Sections 7572 and 7576.
- c. Developing or amending the mental health related service goals and objectives, and the frequency and duration of such services indicated on the pupil's IEP.
- d. Transportation of pupils for mental health services during periods of school vacation when required by the IEP.
- e. Identification of existing public and state-certified nonpublic educational programs, treatment modalities, and location of appropriate residential placements which may be used for placement by the expanded IEP program team.
- f. Out-of-home placement of seriously emotionally disturbed pupils in accordance with the education and treatment goals on the IEP.
- g. Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code section 7575, subdivision (f). For purposes of this subdivision only, the term 'appropriate' means any service identified in the pupil's IEP, or any service the pupil actually was receiving at the time of the interagency dispute.
- h. A host county to notify the community mental health service of a county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons.
- i. Development of a mental health assessment plan and its implementation.
- j. At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required.
- k. The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations.
- l. The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided.
- m. The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service

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shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided.

n. Mutual staff development for education and mental health staff pursuant to Government Code, section 7586.6, subdivision (a). (Effective July 1, 2004.)

12. All costs incurred by the designation and performance of the lead case manager when the expanded IEP team recommends out of home placement for a seriously emotionally disturbed pupil. Designate a lead case manager when the expanded IEP team recommends out-of-home residential placement for a seriously emotionally disturbed pupil. The lead case manager shall perform the following activities:

- a. Convene parents and representatives of public and private agencies in accordance with section 60100, subdivision (f), in order to identify the appropriate residential facility.
- b. Complete the local mental health program payment authorization in order to initiate out of home care payments.
- c. Coordinate the completion of the necessary County Welfare Department, local mental health program, and responsible local education agency financial paperwork or contracts.
- d. Coordinate the completion of the residential placement as soon as possible.
- e. Develop the plan for and assist the family and pupil in the pupil's social and emotional transition from home to the residential facility and the subsequent return to the home.
- f. Facilitate the enrollment of the pupil in the residential facility.
- g. Conduct quarterly face-to-face contacts with the pupil at the residential facility to monitor the level of care and supervision and the implementation of the treatment services and the IEP.
- h. Notify the parent or legal guardian and the local education agency administrator or designee when there is a discrepancy in the level of care, supervision, provision of treatment services, and the requirements of the IEP. (Effective July 1, 1986; detail effective July 1, 2004.)

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V. CLAIM PREPARATION AND SUBMISSION

There are two satisfactory methods for submitting claims for reimbursement of costs incurred to comply with this mandate:

A. Actual Cost Method.

To claim under the actual cost method, report actual costs incurred for each of the following expense categories in the format specified by the State Controller's Claiming Instructions. Attach supporting schedules as necessary:

Direct Costs

Employee salaries and benefits: Show the classification of the employees involved, mandated functions performed, number of hours devoted to the function, and hourly rates and benefits.

Reimbursement for personnel services includes compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods off authorized absences (e.g., annual leave, sick leave, vacation leave) and the employer's contribution to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

Services and supplies: Include only expenditures which can be identified as a direct cost resulting from the mandate. List cost of materials acquired which have been consumed or expended. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant attributable to the services and supplies consumed or expended for the mandate. Supplies that are withdrawn from existing inventory shall be charged on a recognized method of costing, consistently applied.

Contract services: Provide the name(s) of the contractor(s) who performed the services, including any fixed contract for service. Describe the

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reimbursable activity(ies) performed by each named contractor and give the actual number of hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services.

Fixed assets: List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is eligible for reimbursement.

Travel: Travel expenses for mileage, per diem, lodging and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points and travel costs.

Training: The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging and per diem.

Indirect Costs

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate exceeds 10%.

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If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B.) However, unallowable costs may be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distributed indirect costs to mandates. The rate should be expressed as a percentage which the total allowable indirect cost bears to the base selected; or

The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

B. Cost Report Method

Under this claiming method, the mandate reimbursement claim is still submitted on the State Controller's claiming forms in accordance with the

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claiming instructions. A complete copy of the annual cost report including all supporting schedules attached to the cost report as filed with the Department of Mental Health must also be filed with the claim forms submitted to the State Controller.

To the extent that reimbursable indirect costs have not already been reimbursed by the Department of Mental Health from categorical funding sources, they may be claimed as follows:

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B.) However, unallowable costs may be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

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The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distributed indirect costs to mandates. The rate should be expressed as a percentage which the total allowable indirect cost bears to the base selected; or

The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after date that the actual reimbursement claim is field or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is field, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, shall be retained through the completion of any audit.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

The following revenue and/or funds must be identified as offsets and deducted from any costs claimed:

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Funds received by a county pursuant to Government Code, section 7576.5.

Any direct payments or categorical funding received from the state that is specifically allocated to any service provided under this program. This includes the appropriation made by the Legislature in Budget Act of 2001, which appropriated funds to counties in the amounts of \$12,334,000 (Stats. 2001, Ch. 106, item 4440-131-0001), and the \$69 million appropriation in 2003 and 2004 (Stats. 2003, Ch. 157, item 6110-161-0890, provision 17: Stats. 2004, Ch. 208, item 6110-161-0890, provision 10).

Private insurance proceeds obtained with the consent of a parent for purposes of this program.

Medi-Cal proceeds obtained from the state or federal government that pay for a portion of the county services provided to pupil under the Handicapped and Disabled program, to the extent these funds do not include a county match, in accordance with federal law.

Any other reimbursement received from the federal or state government or other non-local source.

For the purposes of this mandate, any program realignment funds appropriated under the Bronzan-McCorquodale Act [Statutes 2002, Chapter 1167 (Assem. Bill 2781)] which were received by a county are not required to be identified as an offset or deducted from the costs incurred.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies in claiming costs to be reimbursed. The claiming instructions shall be derived from the same statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code, Section 17561, subdivision (d)(1), the issuance of the claiming instructions shall constitute a notice of the right of

Los Angeles County
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the local agencies and school districts to file reimbursement claims, based upon the parameters and guidelines adopted by the Commission.

REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests to amend parameters and guidelines shall be pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY
AUDITOR-CONTROLLER

**Los Angeles County
Comments and Draft Parameters and Guidelines
Handicapped and Disabled Students Program Reconsideration**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB 90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analysis, and for proposing parameters and guidelines (P's& G's) and amendments thereto, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject comments and draft parameters and guidelines.

I declare that it is my information and belief that the County's State mandated duties, as set forth in the County's proposed Ps&Gs, and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

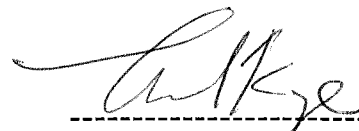
" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I declare that I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

"To Enrich Lives Through Effective and Caring Service"

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

10/6/05, Los Angeles, CA
Date and Place


Signature

MARVIN J. SOUTHARD, D.S.W.
Director

SUSAN KERR
Chief Deputy Director

RODERICK SHANER, M.D.
Medical Director



GLORIA MOLINA
YVONNE B. BURKE
ZEV YAROSLAVSKY
DON KNABE
MICHAEL D. ANTONOVICH

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: CHILDREN'S SYSTEM OF CARE (3rd Floor)

(213) 738-3940 Fax: (213) 738-6521

Declaration of Paul L. McIver
Los Angeles County Comments on Parameters and Guidelines:
Handicapped & Disabled Students Reconsideration [04-RL-4282-10]

Paul L. McIver makes the following declaration and statement under oath:

I, Paul L. McIver, District Chief, Countywide Programs, Children's System of Care, Department of Mental Health, County of Los Angeles, am responsible for developing and implementing State mandated service programs including State-mandated programs to provide "mental health services for pupils with disabilities" pursuant to provisions of Chapter 26.5 of the Government-Code, Title 2, Division 9 of the California Code of Regulations.

I declare that I have reviewed the Commission on State Mandates [Commission] Statement of Decision adopted on May 26, 2005, regarding the Handicapped & Disabled Students Program [04-RL-4282-10], finding the costs of County participation in due process hearings relating to mental health assessments or services to be reimbursable under article XIII B, Section 6 of the California Constitution and Government Code Section 17514.

I declare that it is my information and belief the County must comply with the due process duties set forth under Education Code Sections 56500-56508; California Code of Regulations Section 60550; and, Government Code Sections 7585, 7586.

I declare that Government Code Section 7586 mandates that the County participate in implementing procedural due process safeguards as follows:

"(a) All state departments, and their designated local agencies, shall be governed by the procedural safeguards required in Section 1415 of Title 20 of the United States Code. A due process hearing arising over a related service or designated

instruction and service shall be filed with the Superintendent of Public Instruction. Resolution of all issues shall be through the due process hearing process established in Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code. The decision issued in the due process hearing shall be binding on the department having responsibility for the services in issue as prescribed by this chapter.

(b) Upon receipt of a request for a due process hearing involving an agency other than an educational agency, the Superintendent of Public Instruction shall immediately notify the state and local agencies involved by sending a copy of the request to the agencies.

(c) All hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

(d) No public agency, state or local, may request a due process hearing pursuant to Section 56501 of the Education Code against another public agency.”

I declare that Government Code Section 7585 mandates that the County, upon a failure to provide required services, perform duties, including those required for: written notification; resolution meetings; submission of issue[s] to the director of the office of administrative hearings; appeals; provision of services pending resolution; due process hearing; and, reporting, as follows:

“(a) Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's individualized education program, the parent, adult pupil, or any local education agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of Health and Welfare.

(b) When either the Superintendent of Public Instruction or the Secretary of Health and Welfare receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue

within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local education agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the State Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the Director of the Office of Administrative Hearings, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local education agency, either party may appeal to the Director of the Office of Administrative Hearings, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall ensure that funds are available for provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) Nothing in this section prevents a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.”

I declare that Section 60550 of the California Code of Regulations explicitly sets forth procedures that the County must follow in resolving disputes as follows:

“(a) Due process hearing procedures apply to the resolution of disagreements between a parent and a public agency regarding the proposal or refusal of a public agency to initiate or change the identification, assessment, educational placement, or the provision of special education and related services to the pupil.

(b) Upon receiving a request for a due process hearing regarding the services provided or refused by another agency, the Superintendent of Public Instruction or designee shall send the state and local agency involved a copy of the hearing request, the name of the assigned mediator, and the date of the mediation meeting in accordance with Section 56503 of the Education Code. Nothing in this section shall preclude any party from waiving mediation.

(c) If the mediator cannot resolve the issues, a state level hearing shall be conducted by a hearing officer in accordance with Section 56505 of the Education Code.

(d) Each agency which is identified by the State Superintendent of Public Instruction or designee as a potentially responsible party and which has been involved in a proposal or refusal to provide a service is responsible for preparing documentation and providing testimony for the hearing officer.

(e) The hearing officer shall be knowledgeable in the laws governing administrative hearings. In addition, the hearing officer shall be knowledgeable about the provisions of Chapter 26.5 of the Government Code and applicable laws relevant to special education, community mental health and the California Children's Services Program. For hearings related to the provision of occupational and/or physical therapy, the hearing officer shall rule according to Government Code Section 7575(a) which specifies:

(1) "Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 2, commencing with Section 123825 et. seq. of the Health and Safety Code, by reason of medical diagnosis and when contained in the pupil's IEP.

(2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, which the IEP team determines are necessary in order to assist a pupil to benefit from special education, shall be provided by the LEA by qualified personnel whose employment standards are covered by the Education Code and implementing regulations."

(f) The hearing decision shall be the final administrative determination regarding the provision of educational and related services, and is binding on all parties.

(g) Nothing in this article shall preclude the Department of Social Services from instituting, maintaining and concluding an administrative action to revoke or temporarily suspend a license pursuant to the Community Care Facilities Act, Health and Safety Code Section 1500 et. Seq.

(h) Nothing in this article shall interfere with the discharge of a pupil placed in a community treatment facility who does not meet admission or continuing stay criteria and/or does meet discharge criteria as defined in Welfare and Institutions Code Section 4094 and implementing CCL regulations.

(i) The California Department of Education is fiscally responsible for services provided by the mediator and the hearing officer in response to a parent's request for a due process hearing."

I declare that that in order for the County to resolve disputes in accordance with Section 60550 of the California Code of Regulations [cited above], the County must also comply with Education Code Sections 56500.1 through 56508, including Sections 56505 and 56508 [both cited above in Section 60550], as follows:

"§ 56500.1. Education for All Handicapped Children Act of 1975; establishment and maintenance of safeguards

(a) All procedural safeguards under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following) shall be established and maintained by each noneducational and educational agency that provides education, related services, or both, to children who are individuals with exceptional needs.

(b) At each individualized education program meeting, the public education agency responsible for convening the meeting shall inform the parent and pupil of the federal and state procedural safeguards that were provided in the notice of parent rights pursuant to Section 56321.

§ 56500.2. Investigation of complaints regarding violations

A complaint filed with the department regarding any alleged violations of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or provision of this part shall be investigated in an expeditious and effective manner pursuant to Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations and Sections 300.660 to 300.662, inclusive, of Title 34 of the Code of Federal Regulations.

§ 56500.3. Dispute resolution; mediation

(a) It is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation prior to filing a request for a due process hearing. It is also the intent of the Legislature that these voluntary prehearing request mediation conferences be an informal process conducted in a nonadversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services may not attend or otherwise participate in the prehearing request mediation conferences.

(b) This part does not preclude the parent or the public educational agency from being accompanied and advised by nonattorney representatives in the mediation conferences and consulting with an attorney prior to or following a mediation conference. For purposes of this section, "attorney" means an active, practicing member of the State Bar of California or another independent contractor used to provide legal advocacy services, but does not mean a parent of the pupil who is also an attorney.

(c) Requesting or participating in a mediation conference is not a prerequisite to requesting a due process hearing.

(d) All requests for a mediation conference shall be filed with the superintendent. The party initiating a mediation conference by filing a written request with the superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed with the superintendent. The mediation conference shall be conducted by a person knowledgeable in the process of reconciling differences in a nonadversarial manner and under contract with the department pursuant to Section 56504.5. The mediator shall be knowledgeable in the laws and regulations governing special education.

(e) The prehearing mediation conference shall be scheduled within 15 days of receipt by the superintendent of the request for mediation. The mediation conference shall be completed within 30 days after receipt of the request for mediation unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation. Pursuant to paragraph (3) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations, and to encourage the use of mediation, the state shall bear the cost of the mediation process, including any meetings described in subsection (d) of Section 300.506 of Title 34 of the Code of Federal Regulations. The costs of mediation shall be included in the contract described in Section 56504.5.

(f) Based upon the mediation conference, the district superintendent, the county superintendent, or the director of the public educational agency, or his or her designee, may resolve the issue or issues. However, this resolution may not conflict with state or federal law and shall be to the satisfaction of both parties. A copy of the written resolution shall be mailed to each party within 10 days following the mediation conference.

(g) If the mediation conference fails to resolve the issues to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a state-level hearing pursuant to Section 56505. The mediator may assist the parties in specifying any unresolved issues to be included in the hearing request.

(h) Any mediation conference held pursuant to this section shall be scheduled in a timely manner and shall be held at a time and place reasonably convenient to the parties to the dispute in accordance with paragraph (4) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations.

(i) The mediation conference shall be conducted in accordance with regulations adopted by the board.

(j) Notwithstanding any procedure set forth in this chapter, a public educational agency and a parent may, if the party initiating the mediation conference so chooses, meet informally to resolve any issue or issues to the satisfaction of both parties prior to the mediation conference.

(k) The procedures and rights contained in this section shall be included in the notice of parent rights attached to the pupil's assessment plan pursuant to Section 56321.

§ 56500.4. Notice to parents or guardians of exceptional needs child; initial referral for assessment

Pursuant to paragraphs (3) and (4) of subsection (b) of Section 1415 of Title 20 of the United States Code, and in accordance with Section 300.503 of Title 34 of the Code of Federal Regulations, written prior notice shall be given by the public agency to the parents or guardians of an individual with exceptional needs, or to the parents or guardians of a child upon initial referral for assessment.

§ 56500.5. Notice to parents or guardians of exceptional needs child; graduation from high school with regular diploma

As provided in clause (iii) of paragraph (3) of subsection (a) of Section 300.122 of Title 34 of the Code of Federal Regulations, parents or guardians of an individual with exceptional needs shall be given reasonable written prior notice, in accordance with Section 56500.4, that their child will be graduating from high school with a regular high school diploma because graduation from high school with a regular diploma constitutes a change in placement.

§ 56500.6. Due process and state complaint procedures for children enrolled in private schools

Due process and state complaint procedures for children enrolled in private schools by their parents pursuant to Sections 56170 to 56174.5, inclusive, shall be in accordance with Section 300.457 of Title 34 of the Code of Federal Regulations.

§ 56501. Due process hearing; procedures; initiation

(a) The due process hearing procedures prescribed by this chapter extend to the parent or guardian, as defined in Section 56028, a pupil who has been

emancipated, and a pupil who is a ward or dependent of the court or for whom no parent or guardian can be identified or located when the hearing officer determines that either the local educational agency has failed to appoint a surrogate parent as required by Section 7579.5 of the Government Code or the surrogate parent appointed by the local educational agency does not meet the criteria set forth in subdivision (f) of Section 7579.5 of the Government Code, and the public education agency involved in any decisions regarding a pupil. The appointment of a surrogate parent after a hearing has been requested by the pupil shall not be cause for dismissal of the hearing request. The parent or guardian and the public education agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances:

(1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child.

(3) The parent or guardian refuses to consent to an assessment of the child.

(4) There is a disagreement between a parent or guardian and a district, special education local plan area, or county office regarding the availability of a program appropriate for the child, including the question of financial responsibility, as specified in subsection (b) of Section 300.403 of Title 34 of the Code of Federal Regulations.

(b) The due process hearing rights prescribed by this chapter include, but are not limited to, all the following:

(1) The right to a mediation conference pursuant to Section 56500.3.

(2) The right to request a mediation conference at any point during the hearing process. The mediation process is not to be used to deny or delay a parent's or guardian's right to a due process hearing, or to deny any other rights afforded under this part, or under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). Notwithstanding subdivision (a) of Section 56500.3, attorneys and advocates are permitted to participate in mediation conferences scheduled after the filing of a request for due process hearing.

(3) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27.

(4) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

(c) In addition to the rights prescribed by subdivision (b), the parent or guardian has the following rights:

(1) The right to have the pupil who is the subject of the state hearing present at the hearing.

(2) The right to open the state hearing to the public.

§ 56502. Requests for due process hearings; informal meeting; notice to parties; availability of services within geographical area

(a) All requests for a due process hearing shall be filed with the superintendent in accordance with paragraphs (1) and (2) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

(b) The superintendent shall develop a model form to assist parents and guardians in filing a request for due process that is in accordance with paragraph (3) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

(c) The party initiating a due process hearing by filing a written request with the superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the superintendent.

(d) The superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(e) Notwithstanding any procedure set forth in this chapter, a public education

agency and a parent or guardian may, if the party initiating the hearing so chooses, meet informally to resolve any issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public education agency or his or her designee. Any designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(f) Upon receipt by the superintendent of a written request by the parent or guardian or public education agency, the superintendent or his or her designee or designees shall immediately notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

§ 56503. Dispute resolution; availability of mediation

Nothing in this chapter shall preclude the parties to a hearing from agreeing to use a mediation conference or resolving their dispute in an informal, nonadversarial manner, even though a request for a state level hearing has been filed or even if the hearing has commenced.

§ 56504. School records; inspection and reproduction

The parent shall have the right and opportunity to examine all school records of the child and to receive copies pursuant to this section and to Section 49065 within five days after such request is made by the parent, either orally or in writing. A public educational agency may charge no more than the actual cost of reproducing such records, but if this cost effectively prevents the parent from exercising the right to receive such copy or copies the copy or copies shall be reproduced at no cost.

§ 56504.5. Agreements or contracts to conduct mediation conferences and due process hearings; conduct of mediation or hearings; regulatory standards; collection and provision of data; reports

(a) The department shall enter into an interagency agreement with another state agency or contract with a nonprofit organization or entity to conduct mediation conferences and due process hearings in accordance with Sections 300.506 and 300.508 of Title 34 of the Code of Federal Regulations.

(b) The agency or contractor shall provide hearings and mediations in a manner that is consistent with all applicable federal and state laws and regulations, and any other applicable legal authorities.

(c) The Superintendent shall adopt regulations that establish standards for all of the following components of an interagency agreement or contract entered into pursuant to subdivision (a):

(1) The training and qualifications for mediators and hearing officers.

(2) The availability of translators and translated documents.

(3) Prevention of conflicts of interest for mediators and hearing officers.

(4) The supervision of mediators and hearing officers.

(5) Monitoring, tracking, and management of cases.

(6) The process for conducting mediations and due process hearings.

(7) Communication with parties to mediations and due process hearings.

(8) The establishment of a committee to advise the agency or contractor with regard to conducting mediations and due process hearings.

(9) The contents of a manual to describe the procedures of the mediation and due process hearing.

(d)(1) An agency or contractor shall collect and provide data in standardized formats, which allow the department to manage and report on all mediation and

due process activities in the state. An agency or contractor shall propose the manner in which specific data and information will be collected and transmitted electronically and in writing to the department on a quarterly basis. The reports shall contain data to provide the state with information to comply with federal and state regulations for monitoring local programs. An agency or contractor shall identify applicable data to be collected, analyzed, and formatted including, but not limited to, caseloads, status of cases, and outcomes for mediations and hearings.

(2) The agency or contractor shall, on a quarterly basis, provide the department with information that includes, but is not limited to, all of the following:

(A) Formal complaints: (i) Number of complaints; (ii) number of complaints with findings; (iii) number of complaints with no findings; (iv) number of complaints not investigated, withdrawn, or no jurisdiction; (v) number of complaints completed or addressed within timelines; and (vi) number of complaints pending.

(B) Mediations: (i) Number of mediations not related to hearing requests; (ii) number of mediations related to hearing requests; (iii) number of mediation agreements not related to hearing requests; (iv) number of mediation agreements related to hearing requests; and (v) number of mediations pending.

(C) Due process hearings: (i) Number of hearing requests; (ii) number of hearings held; (iii) number of decisions issued after timelines and extension expired; (iv) number of hearings pending; and (v) number of expedited hearings.

(3) The agency or contractor shall submit hard copies of hearing decision reports to the department and shall administer and upload all redacted reports on a quarterly basis to the hearing decision database of the department. The agency or contractor shall have the ability to provide the department with the costs of hearings and mediations on both an aggregate and individual basis.

§ 56505. State hearing

(a) The state hearing shall be conducted in accordance with regulations adopted by the board.

(b) The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws and regulations governing special education and administrative hearings pursuant to Section 56504.5, and who has satisfactorily completed training pursuant to this subdivision. The Superintendent shall establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions are accurate. A due process hearing may not be conducted by any individual listed in subsection (a) of Section 300.508 of Title 34 of the Code of Federal Regulations. Pursuant to subsection (b) of Section 300.508 of the Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to subsection (a) of Section 300.514 of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state-level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.526 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school shall, with the consent of his or her parent or guardian, be placed in the public school program until all proceedings have been completed. As provided in subsection (c) of Section 300.514 of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the parent or guardian of the pupil that a change of placement is appropriate, that placement shall be treated as an agreement between the state or local agency and the parent or guardian.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of, witnesses.

(4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing.

(5) The right to written, or, at the option of the parent or guardian, electronic findings of fact and decisions. The record of the hearing and the findings of fact and decisions shall be provided at no cost to parents or guardians in accordance with paragraph (2) of subsection (c) of Section 300.509 of Title 34 of the Code of Federal Regulations. The findings and decisions shall be made available to the public after any personally identifiable information has been deleted consistent with the confidentiality requirements of subsection (c) of Section 1417 of Title 20 of the United States Code and shall also be transmitted to the Advisory Commission on Special Education pursuant to paragraph (4) of subsection (h) of Section 1415 of Title 20 of the United States Code.

(6) The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues. Upon the request of a parent who is not represented by an attorney, the agency responsible for conducting hearings shall provide a mediator to assist the parent in identifying the issues and the proposed resolution of the issues.

(7) The right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing. Included in the material to be disclosed to all parties at least five business days prior to a hearing shall be all assessments completed by that date and recommendations based on the assessments that the parties intend to use at the hearing.

(8) The right, pursuant to paragraph (3) of subsection (a) of Section 300.509 of Title 34 of the Code of Federal Regulations, to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision, including the reasons for any nonpublic, nonsectarian school placement, the provision of nonpublic, nonsectarian agency services, or the reimbursement for such placement or services, taking into account the requirements of subdivision (a) of Section 56365, shall be mailed to all parties to the hearing within 45 days from the receipt by the Superintendent of the request for a hearing. Either party to the hearing may request the hearing officer to grant an extension. The extension shall be granted upon a showing of good cause. Any extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension.

(g) Subdivision (f) does not alter the burden of proof required in a due process hearing, or prevent a hearing officer from ordering a compensatory remedy for an individual with exceptional needs.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) In a hearing conducted pursuant to this section, the hearing officer may not base a decision solely on nonsubstantive procedural errors, unless the hearing officer finds that the nonsubstantive procedural errors resulted in the loss of an educational opportunity to the pupil or interfered with the opportunity of the parent or guardian of the pupil to participate in the formulation process of the individualized education program.

(k) This chapter does not preclude a party aggrieved by the findings and decisions in a hearing under this section from exercising the right to appeal the decision to a state court of competent jurisdiction. An aggrieved party may also exercise the right to bring a civil action in a district court of the United States without regard to the amount in controversy, pursuant to Section 300.512 of Title 34 of the Code of Federal Regulations. An appeal shall be made within 90 days of receipt of the hearing decision. During the pendency of any administrative or judicial proceeding conducted pursuant to Chapter 5 (commencing with Section 56500), the child involved in the hearing shall remain in his or her present educational placement, unless the public education agency and the parent or guardian of the child agree otherwise. Any action brought under this subdivision shall adhere to the provisions of subsection (b) of Section 300.512 of Title 34 of the Code of Federal Regulations.

(l) Any request for a due process hearing arising under subdivision (a) of Section 56501 shall be filed within three years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request.

(m) Pursuant to subsection (c) of Section 300.508 of Title 34 of the Code of Federal Regulations, each public education agency shall keep a list of the persons who serve as due process hearing officers, in accordance with Section 56504.5, and the list shall include a statement of the qualifications of each of those persons. The

list of hearing officers shall be provided to the public education agencies by the organization or entity under contract with the department to conduct due process hearings.

§ 56505.1. State hearing; authority of hearing officer

The hearing officer may do any of the following during the hearing:

- (a) Question a witness on the record prior to any of the parties doing so.
- (b) With the consent of both parties to the hearing, request that conflicting experts discuss an issue or issues with each other while on the record.
- (c) Visit the proposed placement site or sites when the physical attributes of the site or sites are at issue.
- (d) Call a witness to testify at the hearing if all parties to the hearing consent to the witness giving testimony or the hearing is continued for at least five days after the witness is identified and before the witness testifies.
- (e) Order that an impartial assessment, including an independent educational assessment, of the pupil be conducted for purposes of the hearing and continue the hearing until the assessment has been completed. The cost of any assessment ordered under this subdivision shall be at public expense pursuant to subsection (d) of Section 300.502 of Title 34 of the Code of Federal Regulations and included in the contract between the department and the organization or entity conducting the hearing.
- (f) Bar introduction of any documents or the testimony of any witnesses not disclosed to the hearing officer at least five business days prior to the hearing and bar introduction of any documents or the testimony of any witnesses at the hearing without the consent of the other party not disclosed to the parties at least five business days prior to the hearing pursuant to paragraph (7) of subdivision (e) of Section 56505.
- (g) In decisions relating to the provision of related services by other public agencies, the hearing officer may call as witnesses independent medical specialists qualified to present evidence in the area of the pupil's medical disability. The cost for any witness called to testify under this subdivision shall be included in the contract between the department and the organization or entity conducting the hearing.

(h) Set a reasonable limit on the length of the hearing after consideration of all of the following:

(1) The issues to be heard.

(2) The complexity of the facts to be proven.

(3) The ability of the parties and their representatives, if any, to present their respective cases.

(4) The estimate of the parties as to the time needed to present their respective cases.

§ 56505.2. Placement in or services provided by a nonpublic, nonsectarian school; restrictions upon placement; considerations

(a) A hearing officer may not render a decision that results in the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or that results in a service for an individual with exceptional needs provided by a nonpublic, nonsectarian agency, if the school or agency has not been certified pursuant to Section 56366.1.

(b) A hearing officer shall consider Sections 56365, 56366, and 56366.1 during a due process hearing concerning an issue of placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or services for an individual with exceptional needs provided by a nonpublic, nonsectarian agency.

§ 56506. Due process rights of pupil and parent

In addition to the due process hearing rights enumerated in subdivision (b) of Section 56501, the following due process rights extend to the pupil and the parent:

(a) Written notice to the parent of his or her rights in language easily understood by the general public and in the native language of the parent, as defined in Section 300.19 of Title 34 of the Code of Federal Regulations, or other mode of communication used by the parent, unless to do so is clearly not feasible. The written notice of rights shall include, but not be limited to, those prescribed by Section 56341.

(b) The right to initiate a referral of a child for special education services pursuant to Section 56303.

(c) The right to obtain an independent educational assessment pursuant to subdivision (b) or (c) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted, unless the public education agency prevails in a due process hearing relating to the assessment. In accordance with subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the pupil's parent has failed to respond.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

§ 56507. State hearing; use of attorney; contents of decision

(a) If either party to a due process hearing intends to be represented by an attorney in the state hearing, notice of that intent shall be given to the other party at least 10 days prior to the hearing. The failure to provide that notice shall constitute good cause for a continuance.

(b) An award of reasonable attorneys' fees to the prevailing parent, guardian, or pupil, as the case may be, may only be made either with the agreement of the parties following the conclusion of the administrative hearing process or by a court of competent jurisdiction pursuant to paragraph (3) of subsection (i) of Section 1415 of Title 20 of the United States Code.

(c) Public education agencies shall not use federal funds distributed under Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other federal special education funds, for the agency's own legal counsel or other advocacy costs, that may include, but are not limited to, a private attorney or employee of an attorney, legal paraprofessional, or other paid advocate, related to a due process hearing or the appeal of a hearing decision to the courts. Nor shall the funds be used to reimburse parents who prevail and are awarded attorneys' fees,

pursuant to subdivision (b), as part of the judgment. Nothing in this subdivision shall preclude public agencies from using these funds for attorney services related to the establishment of policy and programs, or responsibilities, under Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the program administration of these programs. This subdivision does not apply to attorneys and others hired under contract to conduct administrative hearings pursuant to subdivision (a) of Section 56505.

(d) The hearing decision shall indicate the extent to which each party has prevailed on each issue heard and decided, including issues involving other public agencies named as parties to the hearing.

§ 56508. Dispute resolution; training materials and workshops on alternative nonadversarial methods

It is the intent of the Legislature that the department develop training materials that can be used locally by parents, public education agencies, and others and conduct workshops on alternative resolutions for resolving differences in a nonadversarial atmosphere with the mutual goal of providing a free and appropriate public education for children and youth with disabilities.”

I declare that it is my information and belief, based on my 19 years of experience in participating in the above dispute resolution procedures pursuant to complying with the due process duties set forth under Education Code Sections 56500-56508; California Code of Regulations Section 60550; and, Government Code Sections 7585, 7586, that the following activities are reasonably necessary, and reimbursable, in implementing the subject due process requirements:

1. Attendance and participation in informal resolution conferences
2. Attendance and participation in formal mediation conferences
3. Attendance and participation in pre-hearing status conferences convened by the State of California Office of Administrative Hearings [OAH]
4. Attendance and participation in settlement conferences convened by OAH
5. Attendance and participation in Due Process hearings conducted by OAH
6. Preparation of witnesses and documentary evidence to be presented at hearings

7. Correspondence/ responses to motions for dismissal, continuance, and other procedural issues

8. Travel associated with dispute resolution

9. Reimbursement to parents, in the form of services, cash, and attorney fees, when parents prevail in Due Process hearings and in negotiated settlement agreements that avoid more costly Due Process hearings

10. County counsel fees incurred when representing county mental health agencies in dispute resolution

I declare that it is my information and belief that the above descriptions of mandated duties and reimbursable costs under the subject test claim are reasonable, proper, and fairly stated.

I declare that it is my information and belief that reimbursable costs under the subject test claim are well in excess of \$1,000 per annum for the County of Los Angeles, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the Handicapped and disabled Pupils program require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

Los Angeles, CA
October 6, 2005

Date and Place



Signature

Exhibit A

Reimbursable Activities – Section IV. Excerpt Los Angeles County’s Draft Parameters and Guidelines Handicapped and Disabled II (02-TC-40/02-TC-49)

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, the following activities are reimbursable:

1. Interagency Agreements (Cal. Code Regs., tit. 2, § 60030)

- The one-time activity, except specified annual updates as noted below, of revising the interagency agreement with each local educational agency to include the following eight procedures:
 - Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code section 7575, subdivision (f). Annually, update the manner in which disputes are resolved in accordance with current court and hearing decisions and administrative changes. Also, annually, update the mean, mode and manner of county staff participation in mediation conferences, witness and evidence preparation, hearings. For purposes of this subdivision only, the term “appropriate” means any service identified in the pupil’s IEP, or any service the pupil actually was receiving at the time of the interagency dispute. (Cal. Code Regs, tit. 2, § 60030, subd. (c)(2).)
 - A host county to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons. (Cal. Code Regs, tit.2, §60030, subd. (c)(4).)
 - Development of a mental health assessment plan and its implementation. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(5).)
 - At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, §60030, subd. (c)(7).)

Exhibit A

- The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
 - The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)
 - The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. Annually, update and disseminate the provider network, showing school districts and parents the agencies and individuals that may perform assessments and provide eligible psychotherapy to eligible students. Also, annually, delete agencies and individuals not available on the provider network. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(15).)
 - Mutual staff development for education and mental health staff pursuant to Government Code section 7586.6, subdivision (a). (Cal. Code Regs., tit. 2, § 60030, subd. (c)(17).)
2. Referral and Mental Health Assessments (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)
- Work collaboratively with the local educational agency to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed. (Gov. Code, § 7576, subd. (b)(1).)
 - A county that receives a referral for a pupil with a different county of origin shall forward the referral within one working day to the county of origin. (Gov. Code, § 7576, subd. (g); Cal. Code Regs., tit. 2, § 60040, subd. (g).)
 - If the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and the local educational agency of the county determination within one day. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(1).)
 - If the county determines that the referral is incomplete, the county shall document the reasons, notify the local educational agency within one

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working day, and return the referral. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(2).)

- Notify the local educational agency when an assessment is determined necessary. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
- Provide the assessment plan to the parent. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
- Report back to the referring local educational agency or IEP team within 30 days from the date of the receipt of the referral if no parental consent for a mental health assessment has been obtained. (Cal. Code Regs., tit. 2, § 60045, subd. (c).)
- Notify the local educational agency within one working day after receipt of the parent's written consent for the mental health assessment to establish the date of the IEP meeting. (Cal. Code Regs., tit. 2, § 60045, subd. (d).)
- Provide the parent with written notification that the parent may require the assessor to attend the IEP meeting to discuss the recommendation when the parent disagrees with the assessor's mental health service recommendation. (Cal. Code Regs., tit. 2, § 60045, subd. (f).)
- The county of origin shall prepare yearly IEP reassessments to determine the needs of a pupil. (Cal. Code Regs., tit. 2, § 60045, subd. (h).)

3. Transfers and Interim Placements (Cal. Code Regs., tit. 2, § 60055)

- Following a pupil's transfer to a new school district, the county shall provide interim mental health services, as specified in the existing IEP, for thirty days, unless the parent agrees otherwise.
- Participate as a member of the IEP team of a transfer pupil to review the interim services and make a determination of services.

4. Participate as a Member of the Expanded IEP Team When Residential Placement of a Pupil is Recommended (Gov. Code, § 7572.55; Cal Code Regs., tit. 2, § 60100)

- When a recommendation is made that a child be placed in an out-of-state residential facility, the expanded IEP team, with the county as a participant, shall develop a plan for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. (Gov. Code, § 7572.55, subd. (c).)

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- The expanded IEP team, with the county as a participant, shall document the alternatives to residential placement that were considered and the reasons why they were rejected. (Cal. Code Regs., tit. 2, § 60100, subd. (c).)
 - The expanded IEP team, with the county as a participant, shall ensure that placement is in accordance with the admission criteria of the facility. (Cal. Code Regs., tit. 2, § 60100, subd. (j).)
 - When the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties shall ensure that: (1) the mental health services are specified in the IEP in accordance with federal law, and (2) the mental health services are provided by qualified mental health professionals. (Cal. Code Regs., tit. 2, § 60100, subd. (i).)
5. Case Management Duties for Pupils Placed in Residential Care (Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code. Regs. tit. 2, §60110, subd, (b)(1).)
 - When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
 - Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs, tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)
 - Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate

Exhibit A

placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)

- Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
 - Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(11).)
 - Evaluate every 90 days the continuing stay criteria, as defined in Welfare and Institutions Code section 4094, of a pupil placed in a community treatment facility every 90 days. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
 - Schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as the pupil remains in residential placement. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(10).)
6. Authorize Payments to Out-Of-Home Residential Care Providers (Cal. Code Regs., tit. 2, § 60200, subd. (e))
- Authorize payments to residential facilities based on rates established by the Department of Social Services in accordance with Welfare and Institutions Code sections 18350 and 18356.
7. Provide Psychotherapy or Other Mental Health Treatment Services (Cal. Code Regs., tit. 2, §§ 60020, subd. (i), 60050, subd. (b), 60200, subd. (c))
- The host county shall make its provider network available and provide the county of origin a list of appropriate providers used by the host county's managed care plan who are currently available to take new referrals. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)
 - The county of origin shall negotiate with the host county to obtain access to limited resources, such as intensive day treatment and day rehabilitation. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)

Exhibit A

- Provide case management services to a pupil when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)
- Provide individual or group psychotherapy services, as defined in Business and Professions Code section 2903, when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)
- Provide medication monitoring services when required by the pupil's IEP. "Medication monitoring" includes all medication support services with the exception of the medications or biological themselves and laboratory work. Medication support services include prescribing, administering, and monitoring of psychiatric medications or biological as necessary to alleviate the symptoms of mental illness. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal.Code.Reg.,tit. 2, § 60020, subd. (f) and (i).)
- Notify the parent and the local educational agency when the parent and the county mutually agree upon the completion or termination of a service, or when the pupil is no longer participating in treatment. ((Cal. Code. Regs., tit. 2, § 60050, subd. (b).)



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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J. TYLER McCAULEY
AUDITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 7th day of October 2005, I served the attached:

Documents: To submit Los Angeles County's Comments and Draft Parameters & Guidelines, Handicapped and Disabled Students Program Reconsideration [04-RL-4828-10] including a 1 page letter of J. Tyler McCauley dated 10/7/05, a 10 page draft Parameters & Guidelines, a 2 page Declaration of Leonard Kaye, a 22 Page Declaration of Paul McIver, and a 6 Page Exhibit A, now pending before the Commission on State Mandates.

upon The Commission on State Mandates, the original document plus a copy per the instructions provided in Case No: 04-RL-4282-10;


- ☒ [X] by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date.
Commission on State Mandates FAX as well as mail of originals.
- ☐ [] by placing ☐ [] true copies ☐ [] original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- ☒ [X] by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- ☐ [] by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

PLEASE SEE ATTACHED MAILING LIST

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of October, 2005, at Los Angeles, California.


Hasmik Yaghobyan

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